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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,464	09/20/2004	Mahyar Khavari	23777-00001	5463
27144	7590	06/14/2005	EXAMINER	
FOSTER, SWIFT, COLLINS & SMITH, P.C. 313 SOUTH WASHINGTON SQUARE LANSING, MI 48933			DOSTER GREENE, DINNATIA JO	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,464	KHAVARI, MAHYAR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dinnatia Doster-Greene	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> .                    |

**DETAILED ACTION**

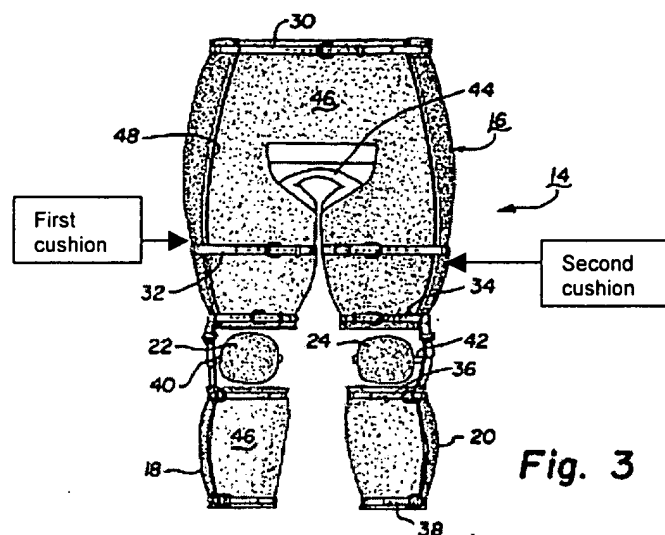
***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Williford et al. (U.S. Patent No. 5,652,957). Williford discloses a wearable body support system, (safety wear 14) comprising a first elongated cushion assembly (see edited Fig. 3 below) and a second elongated cushion assembly (see edited Fig. 3 below). An upper strap (30) attaches to a top portion of the first and second elongated cushion assemblies and configured to attach to a user's waist. The first elongated cushion assembly and the second elongated cushion assembly are separate components and are configured to be worn by a user and provide cushioning and support to the user's posterior lower torso and legs.



Regarding claim 3, the wearable body support system (14) comprises a first lower leg support (18) and a second lower leg support (20). The first and second leg support include a lower leg cushion assembly and a lower leg strap attached to the lower leg cushion assembly (col. 3, lines 4-17). The first and second lower leg supports are configured to attach to the user's lower legs.

Regarding claim 5, the wearable body support system (14) comprises a first knee support (22) attached to the first elongated cushion assembly and a second knee support (20) attached to the second elongate cushion assembly.

Regarding claim 6, the wearable body support system (14) comprises first and second elongated cushion assemblies include a padding element and cover (col. 1, lines 1, line 64-col. 2, line 3 and col. 3, lines 4-17).

2. Claims 1-3, 5-7, 20-22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Howland et al. (U.S. Patent Application Publication No. 2001/0029621). Howland discloses a wearable body support system, (Fig. 1) comprising a first elongated cushion assembly (92) and a second elongated cushion assembly (90) (See also Figs. 11-12b and paragraph [0059]). An upper strap (108) attaches to a top portion of the first and second elongated cushion assemblies and configured to attach to a user's waist. The first elongated cushion assembly and the second elongated cushion assembly are separate components and are configured to be worn by a user and provide cushioning and support to the user's posterior lower torso and legs. *(Although Howland depicts the chaps section being worn on the front of the wearer, Howland specifically recognizes in the last sentence of paragraphs [0047] and [0049] that the chaps can also be worn on the back to protect the user's back and buttocks).*

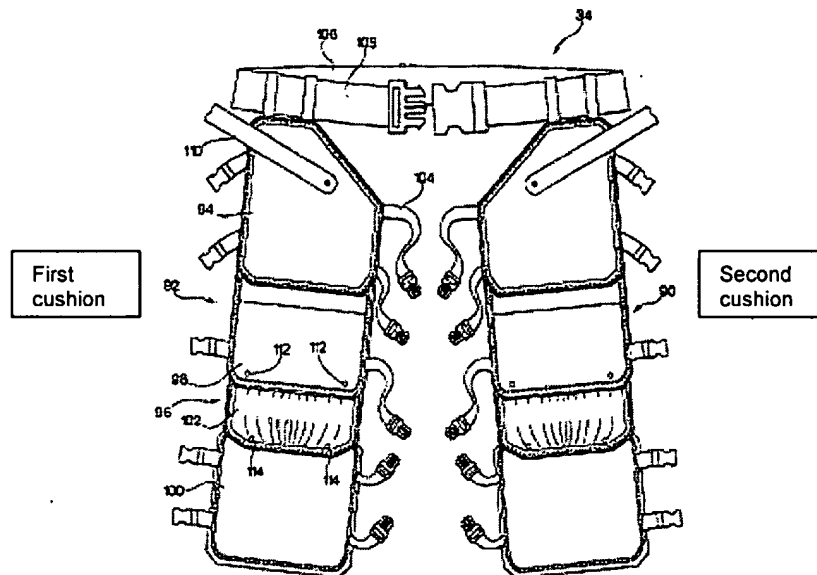


Fig. 5

Regarding claims 2 and 20, Howland discloses wherein the wearable body support system of claim comprises an upper torso support having an upper cushion assembly (32), a pair of arm straps (72, 74) attached to the upper cushion assembly and a bottom strap (76, paragraph [0048]) attached to a bottom portion of the upper cushion assembly. The upper torso support (32) is configured to attach to a user's upper torso and provide cushioning and support to the user's back (paragraph [0047]).

Regarding claims 3 and 21, the wearable body support system comprises a first lower leg support (100) and a second lower leg support (100). The first and second leg support include a lower leg cushion assembly and a lower leg strap attached to the lower leg cushion assembly (Fig. 5) (See also Figs. 11-12b and paragraph [0059]). The first and second lower leg supports are configured to attach to the user's lower legs.

Regarding claims 5 and 24, the wearable body support system of Howland comprises a first knee support (104) attached to the first elongated cushion assembly and a second knee support (104) attached to the second elongate cushion assembly.

Regarding claim 6, the wearable body support system of Howland comprises first and second elongated cushion assemblies include a padding element and cover (See Figs. 11-12b and paragraphs [0059] and [0066]).

Regarding claims 7 and 22, in Howland, the upper cushion assembly includes a padding element and a cover (See Figs. 11-12b and paragraphs [0059] and [0066]).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howland as applied to the above claims, and further in view of Billingsley (U.S.

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Patent No. 1,586,235). As discussed above, Howland discloses the claimed invention with the exception of a connecting strap extending between and connecting a top portion of the first and second elongated cushion assemblies. However, Billingsley, which also relates to a pair of chaps connected to a waist belt 15 which can be worn either attached to the front or back of the wearer (Billingsley, col. 1, lines 45-50), teaches that it is known to connect the individual panels of the chaps also by lacing the panels together (Billingsley, col. 2, lines 91-104). Although Applicant recites a connecting strap, it would have been obvious to one skilled in the art to substitute the lace of Billingsley with other attachment means such as a connector strap having hook and loop connectors into the chaps of Howland for the purpose of facilitating the adornment and removal of the chaps.

Regarding the specific limitations recited in claims 12-16, please see the above analysis of the claims which address similarly recited limitations.

4. Claims 8-10, 17-19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howland as applied to the above claims, and further in view of Courtney (U.S. Patent Application Publication No. 2004/0157514). As discussed above, Howland discloses the claimed invention with the exception of padding element in the upper cushion assembly includes a buoyant material. Regarding claims 8-9, Courtney, which also relates to a body armor vest like Howland, teaches that it is known to incorporate a life vest into an upper support such as a body armor flotation vest (Courtney, Figs. 19 and 25, paragraphs [0024, 0076, 00132-136]). Thus, it would have



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been obvious to one skilled in the art to incorporate the life vest of Courtney into the body armor of Howland for the purpose of providing an upper body support vest that is buoyant and can be worn as an integral part of the support vest to protect the user during combat as well as during water related emergency such as "man over board" situations.

Regarding claim 9, Courtney discloses an inflatable tube 8 element (Courtney, Fig. 1).

Regarding claim 10, it would have been obvious to one skilled in the art at the time of invention design any of the upper body supports of the prior art references cited to include graphics, for example, which display a company's logo or emergency indicia.

Regarding the specific limitations recited in claims 17-19 and 23, please see the above analysis of the claims which address similarly recited limitations.

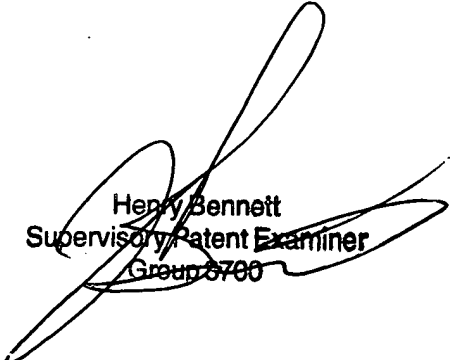
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-271-7143.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ddg



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